

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Petro Siruk and Marina Siruk,

Case No. 20-cv-2373 (WMW/KMM)

Plaintiffs,

**ORDER ADOPTING MAGISTRATE
JUDGE’S REPORT AND
RECOMMENDATION**

v.

State of Minnesota (City of Elk River)
et al.,

Defendants.

This matter is before the Court on the February 22, 2021 Report and Recommendation (R&R) of United States Magistrate Judge Katherine M. Menendez. (Dkt. 14.) The R&R recommends dismissing Plaintiffs’ complaint without prejudice for lack of subject-matter jurisdiction and frivolity. Plaintiff Petro Siruk filed a timely “response” to the R&R.

A district court reviews *de novo* those portions of an R&R to which an objection is made and “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1); *accord* Fed. R. Civ. P. 72(b)(3); LR 72.2(b)(3). When a party fails to file specific objections to an R&R, however, *de novo* review is not required. *See Montgomery v. Compass Airlines, LLC*, 98 F. Supp. 3d 1012, 1017 (D. Minn. 2015) (observing that objections to an R&R that “are not specific but merely repeat arguments presented to and considered by a magistrate judge are not entitled to *de novo* review, but rather are reviewed for clear error”). A district court

reviews for clear error any aspect of an R&R to which no specific objection is made. *See Grinder v. Gammon*, 73 F.3d 793, 795 (8th Cir. 1996) (per curiam); *see also* Fed. R. Civ. P. 72(b) advisory committee's note ("When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.").

The Court has carefully reviewed Siruk's "response" to the R&R. Despite its title, Siruk's response does not address the R&R at all, let alone identify an error of law or fact in the R&R's analysis or recommendations. Siruk's response, which lacks both specific objections and legal merit, simply repeats many of the allegations made in Siruk's prior filings. To the extent that Siruk's response to the R&R could be construed as an objection to the R&R, it is overruled. Having carefully reviewed the R&R, the Court finds that it is neither clearly erroneous nor contrary to law.

ORDER

Based on the foregoing analysis and all the files, records and proceedings herein, **IT IS HEREBY ORDERED:**

1. Defendant Petro Siruk's response to the February 22, 2021 R&R, (Dkt. 16), is **OVERRULED**.
2. The February 22, 2021 R&R, (Dkt. 14), is **ADOPTED**.
3. Plaintiff Petro Siruk's motion to voluntarily dismiss Defendant State of Minnesota (City of Elk River) from this case, (Dkt. 12), is **GRANTED**.

4. Defendant State of Minnesota (City of Elk River)'s motion to dismiss, (Dkt. 4), and Plaintiffs' motion in response thereto, (Dkt. 10), are **DENIED** as moot.

5. Plaintiffs' complaint, (Dkt. 1), is **DISMISSED WITHOUT PREJUDICE**.

6. Plaintiffs' application to proceed *in forma pauperis*, (Dkt. 2), is **DENIED** as moot.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: April 22, 2021

s/Wilhelmina M. Wright
Wilhelmina M. Wright
United States District Judge